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Judiciary Committee
Public Hearing
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Raised Bill No. 1121
AN ACT CONCERNING POSTJUDGMENT INTEREST

TESTIMONY OF ATTORNEY **RENÉE CANNELLA** OF THE CANNELLA LAW FIRM,
STAMFORD, CT AND TREASURER OF THE CONNECTICUT CREDITOR BAR
ASSOCIATION IN SUPPORT OF RAISED BILL NO. 1121

Chairman Fox, Chairman Coleman and Distinguished Members of the Judiciary
Committee:

As a practicing member of the bar of the State of Connecticut I represent businesses of all sizes in commercial and collections litigation. Events in recent years have made it necessary for the clarification of C.G. S. §52-536d(e) which provides for post judgment interest. Raised Bill No. 1121 provides this essential clarification.

A. By way of background:

(1) This statute addresses the situation where a judgment has been entered against a party who owes money to another party and is ordered to pay in installment payments rather than in a lump sum. The statute has been in effect since 1983 and currently reads:

(e) Interest on a money judgment *shall* continue to accrue under any installment payment order on such portion of the judgment as remains unpaid.

For over 20 years this statute was given full effect as it was understood by the judiciary and the bar and therefore it was a given that in any case where a defendant had been given an installment payment order, most often \$35.00 per week or less regardless of the size of the debt, interest automatically accrued until such time as the debt was paid in full.

(2) By enforcing this statute the legislature was properly acknowledging that (a) there is a time value to money and (b) interest provided the only incentive to judgment debtors to pay the debt sooner rather than later. Without interest accruing, a judgment debtor would owe the same amount in year 10 as they do in year 1.

(3) Over recent years there have been a few cases addressing this statute which have interpreted the language of the statute differently than it had been for the twenty years prior.

(4) Currently, judges and magistrates are given full discretion as to whether to grant post judgment interest at all and at what rate it is granted.

B. Practical Effect On Creditors:

(1) Businesses and individuals in our state are being forced to provide what are essentially interest free loans to individuals and businesses who have already benefited from the creditor's services and/or products.

(2) In the Courts: There are no consistent standards applied by the court as to when and how much interest is granted in cases where a creditor has been adjudged to be due money. With the almost identical set of underlying facts, parties will walk out of court with vastly different orders by the court. In one case a creditor may be granted 0% post judgment interest on a \$5,000 judgment with a payment order of \$35 per week. In an identical case a creditor may be granted 10% interest on the same \$5,000 judgment with the same payment order. The decision is at the whim of the court.

The effect of this inconsistency is leaving businesses in a terrible economic position. If these businesses do not get paid for their services and products, they cannot afford to continue functioning fully. A creditor should be able to rely on our state to support them in their efforts to get paid properly what they are due. Forcing them to provide interest free loans is both inequitable and short sighted. The effect of this negative economic outcome for businesses can lead to an avalanche of negative outcomes for the state as a whole including business closings, and layoffs leading to additional unemployment which the people of Connecticut can ill afford.

C. In Relation to Other Statutes

Connecticut General Statutes 37-1 provides that interest at the rate of 8% **shall** accrue on a debt absent an agreement to the contrary. Thus, even absent a judgment the legislature has recognized the time value of money and provided for appropriate remuneration. Certainly where there has been a judgment of the court that money is due a judgment creditor deserves no less than a creditor without a judgment.

Further, CGS 37-3a provides that interest up to 10% may be recovered in civil actions. In cases where a judgment creditor is often being forced to accept weekly payment orders of \$35 per week or less the creditor should be able to count on receiving interest for prolonged period of time they will be collecting.

In conclusion:

It is important to recognize that even with post judgment interest the judgment creditor is rarely going to be made whole. Taking into consideration the time span between when the money was initially due, the great lengths the business has to go to in attempting to collect its due before bringing the matter to court, the costs of hiring an attorney and the transaction costs involved in collecting minimum weekly or monthly payments, post judgment interest barely scratches the surface of making a business whole. Long ago our legislature recognized the efficacy and necessity for post judgment interest. In light of the recent changes which effectively nullified the existing statute it is necessary for the legislature once again to take control of this issue and clarify that they meant the law to do what it did do for the first twenty years of its existence.

Thank you,

Renée Cannella

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